

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

BIEDERMANN MOTECH GMBH and DEPUY SPINE, INC.,	)	
Plaintiffs,	)	CIVIL ACTION NO.
v.	)	
ALPHATEC SPINE, INC.,	)	JURY TRIAL DEMANDED
Defendant.	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs Biedermann Motech GmbH (“Biedermann”) and DePuy Spine, Inc. (“DePuy”) bring this Complaint for patent infringement against Alphatec Spine, Inc. (“Alphatec”). This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

**THE PARTIES**

1. Biedermann is a German corporation having its principal place of business at Bertha von Suttner Str. 23, D-78054 VS-Schwenningen, Germany.
2. Plaintiff DePuy is an Ohio corporation having its principal place of business at 325 Paramount Drive, Raynham, Massachusetts 02767.
3. Upon information and belief, Alphatec is a California corporation having a principal place of business at 2051 Palomar Airport Road, Carlsbad, California 92011.

**NATURE OF THE ACTION**

4. This is an action for patent infringement under 35 U.S.C. §§ 101, et seq.

**JURISDICTION AND VENUE**

5. This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Alphatec generally because it has minimum contacts with this forum as a result of business regularly conducted within the Commonwealth of Massachusetts and within this district. Further, specific jurisdiction exists as a result of defendants having committed the tort of patent infringement, by offer for sale and sale of products that infringe United States Patent No. 5,207,678 (the “‘678 patent”), within Massachusetts and this district.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

**THE PATENT**

8. The ‘678 patent, entitled “Pedicle Screw And Receiver Member Therefore,” is a valid patent duly and legally issued on May 4, 1993 to Jürgen Harms, et al. A copy of the ‘678 patent is attached hereto as Exhibit A.

9. Biedermann owns the ‘678 patent.

10. DePuy is the exclusive licensee of the ‘678 patent.

**INFRINGEMENT OF UNITED STATES PATENT NO. 5,207,678**

11. Paragraphs 1 through 10 are incorporated by reference as if stated fully herein.

12. Alphatec has infringed, induced infringement of, and/or contributorily infringed the ‘678 patent (and continues to do so) by making, using, selling, and/or offering to sell infringing devices, including but not limited to the Alphatec spine system.

13. Alphatec has had notice of the ‘678 patent, and has had notice of infringement of the ‘678 patent at least as early as the date of service of this complaint. Its infringement is willful.

14. As a result of Alphatec's infringement of the '678 patent, Biedermann and DePuy have suffered and continue to suffer injury, loss, and damage, including but not limited to irreparable harm.

**PRAYER FOR RELIEF**

WHEREFORE, Biedermann and DePuy pray for judgment as follows:

- (a) That Alphatec has infringed the '678 patent;
- (b) That Alphatec's infringement of the '678 patent is willful;
- (c) That Alphatec, its respective officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them, and its respective successors and assignees, in order to halt the irreparable harm suffered and being suffered by Biedermann and DePuy, are preliminarily and permanently enjoined from infringing, inducing infringement, and contributing to infringement of the '678 patent;
- (d) That Biedermann and DePuy are awarded damages adequate to compensate for Alphatec's infringement of the '678 patent, together with interest and costs as fixed by the Court;
- (e) That damages awarded to Biedermann and DePuy for Alphatec's willful infringement of the '678 patent are trebled;
- (f) That this case is exceptional within the meaning of 35 U.S.C. § 285 and that Biedermann and DePuy are awarded attorneys fees, costs, and expenses incurred in this action; and
- (g) That Biedermann and DePuy are awarded such other and further relief as this Court deems just and proper.

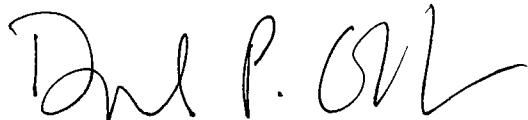
**DEMAND FOR JURY TRIAL**

Biedermann and DePuy hereby demand a jury trial on all issues so triable.

Respectfully submitted,

BIEDERMANN MOTECH GMBH  
and DEPUY SPINE, INC.

By their attorneys,



Dated: June 26, 2006

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